

MONTANA LEGISLATIVE HISTORY

Chapter 65 19 73

Bill H 29 S _____ Original bill & history C

H. Committee on Business & Industry

Hearing Date(s) Feb 09 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Feb 09 ☒ C

S. Committee on Business & Industry

Hearing Date(s) Jan 08 ☒ C

Jan 10 ☒ C

Jan 12 ☒ C

Jan 13 ☒ C

Jan 13 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

BUSINESS AND INDUSTRY COMMITTEE

January 8, 1973

The second meeting of the Business and Industry Committee was called to order this date at 10:30 a.m. with Chairman Mehrens presiding. All members were present with the exception of Representative Mercer.

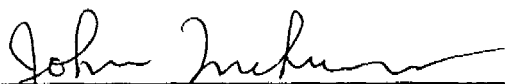
Chairman Mehrens appointed subcommittees for the following bills:

HB #29 Consisting of Representatives Quilici, Lockrem, and Olson.

HB #67 Consisting of Representatives Harper, Driscoll, and Swanberg.

Chairman Mehrens announced that HB #59 and HB #29 will be heard at the next meeting.

Representative Lockrem moved the meeting be adjourned. Representative Lien seconded the motion and it was passed. The meeting was adjourned at 10:45 a.m. until Wednesday, January 10, at 10:30 a.m.


John Mehrens, Chairman

jb

BUSINESS AND INDUSTRY COMMITTEE

January 10, 1973

The Business and Industry meeting was called to order this date at 10:30 a.m. with Chairman Mehrens presiding. All members were present with the exception of Rep. Laas.

The following bills were before the committee for discussion:

HB #29...Rep. Lockrem, main supporter, gave a summary of this bill. He proposed the following amendments:

1. On page 2, section 2, subsection (4), line 8 after the word "policy," by inserting the words "or certificate of insurance".
2. On page 3, section 2, line 24 after the word "insurance," by inserting the words "or certificate issued thereunder".
3. On page 7, section 3, subsection (7), line 2 after the word "policy," by inserting the words "or certificate of insurance".
4. On page 8, section 4, subsection (3), line 9 after the word "policy," by inserting the words "or certificate issued thereunder".

Other proponents testifying were Don E. Espelin, M.D.; Mr. Bill Norman; and Mr. Jerome Loendorf, a representative of Montana Medical Association. Mr. Loendorf asked to amend this bill on page 8, line 15 before the number "5." by inserting "Section". There were no opponents.

HB #67...Rep. Harper announced that the subcommittee on this bill would be ready to report next Wednesday, January 17.

HB #29...Rep. Quilici announced that the subcommittee on this bill would be ready to report Friday, January 12.

Action on HB 59 was taken. Rep. Quilici moved that HB 59 as amended DO PASS. Rep. Harper seconded the motion and it passed unanimously.

Chairman Mehrens announced that HB 54 would be heard next meeting in the Governor's reception room.

There being no other business, the meeting was adjourned until Friday, January 12, at 10:30 a.m.


John Mehrens, Chairman

BUSINESS AND INDUSTRY COMMITTEE

January 12, 1973

A joint meeting of the House and Senate committees was called to order this date at 10:30 a.m., in the Governor's Reception Room with Chairman Mehrens presiding. All members were present.

The following bills were before the committees for consideration:

House Bill 54. . . Rep. Harper, chief sponsor, gave a summary on this bill, which is attached. He suggested amendments to this bill (attached) and then introduced the following proponents: Mr. Dennis McFeely, member of the Federal Trade Commission; Mr. Clyde Jarvis, member of the Montana Farmers Union; Rep. James Lucas, co-sponsor of the bill; Dr. Jeanine Gilmartin, representing the Consumer Affairs Council; Mr. Harry L. Billings, from the AFL-CIO; Mr. Lawrence G. Stimatz, County Attorney from Butte; Mr. Roderic R. Gudgel, member of the Montana State Pharmaceutical Association; and Rep. Pat McKittrick, co-sponsor of this bill.

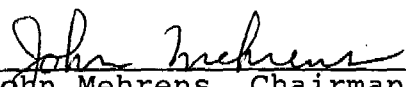
Prepared statements from the following are attached: Mr. Clyde Jarvis, Dr. Jeanine Gilmartin, and Mr. Harry L. Billings.

Opponents of the bill were Mr. Frank Switzer, from the Montana Chamber of Commerce; and Mr. Socs Vratis, from the Montana Retail Association. Their prepared testimony is attached.

House Bill 29. . . Consideration of this bill will be taken up at the next meeting.

No action on these bills were taken. Chairman Mehrens will appoint a subcommittee on House Bill 54 at the next meeting.

There being no further business, the meeting was adjourned at 12:45 p.m.


John Mehrens, Chairman

BUSINESS AND INDUSTRY COMMITTEE

January 13, 1973

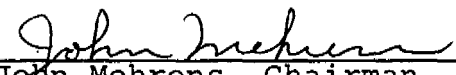
A special meeting of the Business and Industry Committee was called to order this date at 9:00 a.m. with Chairman Mehrens presiding. All members were present with the exception of Rep. Lien.

HB 29 was before the committee for consideration. Rep. Lucas, chief sponsor, gave a summary of the bill. He agreed with the amendments submitted to the committee by the subcommittee. Other proponents to this bill were: Mr. Bob Carette, from Montana Power Co.; Mr. Alan F. Cain, representing Mountain Bell; and Mr. Peter C. Pauly, representing Montana-Dakota Utilities. There were no opponents.

The following action was taken on HB 29: Rep. Lockrem moved to adopt the amendments submitted by the subcommittee, copy attached. Rep. Quilici seconded the motion and it passed unanimously. Rep. Quilici moved HB 29 as amended DO PASS. It was seconded and passed with Rep. Harper voting NO.

Chairman Mehrens appointed Rep. Harper, Swanberg, and Ageson to be a subcommittee on HB 54.

There being no further business, the meeting was adjourned at 9:45 a.m.


John Mehrens, Chairman

jb

We, your sub-committee on business and industry, having had under consideration House Bill No. 29:

A BILL FOR AN ACT ENTITLED: "AN ACT TO CREATE THE OFFICE OF CONSUMER COUNSEL TO COMPLY WITH ARTICLE XIII, SECTION 2 OF THE 1972 MONTANA CONSTITUTION: AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

Respectfully report as follows: That House Bill No. 29 be amended in the title, on page 1, lines 6 and 7 after the word "CONSTITUTION" by deleting "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

be it further amended on page 1, section 2, subsection (3), line 22, after the word "commission" by deleting "." and in inserting the following, "or any successor agency."

be it further amended on page 3, section 5, lines 6 thru and including line 9 by striking all the material contained therein and inserting in lieu thereof the following new material: "The committee shall appoint a consumer counsel and set his salary. The consumer counsel shall have the following minimum qualifications and such additional qualifications as the committee determines appropriate:

(1) a bachelor's degree or equivalent from an accredited college or university with a major or minor in accounting or allied fields;

(2) be admitted to practice law in Montana courts and in the United States district court for the state of Montana."

be it further amended on page 3, section 7, subsection (1), line 18 after the word "any" delete the words "regulated-company" and insert in lieu thereof the words "party in interest"

be it further amended on page 4, section 7, subsection (4), line 3 after the word "examine" insert the words "in any commission proceedings"

be it further amended on page 5, section 9, subsection (2), line 15 after the word "shall," by striking the words "between-the-first-and-fifteenth-day-of-January, April, July, and October of each year," and inserting in lieu thereof the words "within 90 days after the close of each calendar quarter,"

be it further amended on page 5, section 9, subsection (2), line 18 after the word "regulation" by inserting the words "and the department of Revenue"

be it further amended on page 5, section 9, subsection (2), line 20 after the word "all" by striking the word "regulated"

be it further amended on page 5, section 9, subsection (2), line 20 after the word "activities" by inserting the words "regulated by the"

be it further amended on page 5, section 9, subsection (2), line 21 by deleting the words "~~the-preceding-three-(3)-months~~" and inserting in lieu thereof the words "that calendar quarter"

be it further amended on page 5, section 9, subsection (2), line 22 after the word "the" by striking the word "~~commission~~" and inserting in lieu thereof the words "department of revenue"

be it further amended on page 5, section 9, subsection (2), line 24 after the word "the" by striking the word "~~commission~~" and inserting in lieu thereof the words "department of revenue"

be it further amended on page 6, section 9, subsection (3), line 3 after the word "the" by striking the word "~~commission~~" and inserting in lieu thereof the words "department of revenue"

be it further amended on page 7, section 9, subsection (6), line 14 after the word "the" by striking the word "~~commission~~" and inserting in lieu thereof the words "department of revenue"

be it further amended on page 7, section 10, line 21 by striking in its entirety "~~Section-10.--Effective-date.--This-act-is-effective on-its-passage-and-approval.~~"

Joe Quilici, Chairman

Lloyd Lockrem

S. A. Olson

ADDITIONAL AMENDMENT

be amended on pate 3, section 4, line 3, after the word "sum" by striking the following material: "of twenty-five dollars (\$25) per day", and inserting in lieu thereof the following material: "equal to a legisltor's pay".

NAME Peter C. Pauly BILL No. 29
ADDRESS 833 N. MAIN DATE 1-13-73
Helena, Mont.

WHOM DO YOU REPRESENT? MONTANA - DATA UTILITIES

SUPPORT? ☒ OPPOSE? ☐ AMEND? ☐

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

As Amended

February 7, 1973

The Committee on Business and Industry met on Wednesday, February 7th, 1973 at 11:00 A. M. in Room 412. Roll call was taken by the Secretary and all members were present except for the Chairman DeWolfe, who was excused. Senator McGowan Vice-Chairman of the Business and Industry Committee conducted the meeting.

The following witnesses appeared before the committee in favor of House Bill No. 29.

John W. McDonald	Mountain Bell	Helena, Montana
Lester Loble II	Montana Dakota Utility Co.	
	Gen. Tel. of N.W.	Helena, Montana
Gene Phillips	Pacific Power and Light	Kalispell, Montana

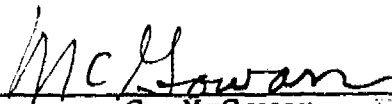
A motion was made by Senator Groff and seconded by Hazelbaker that House Bill No. 29 BE CONCURRED IN. Report adopted.

Senate Bill No. 156 was then discussed and it was decided that the bill was similiar to House Bill No. 29. A motion was made by Senator Lowe and seconded by Senator Broeder that the Bill DO NOT PASS. Report adopted.

Senate Bill No. 232 was next taken up. Senator McNamer appeared in support of the bill. Motion was made by Senator Lowe and seconded by Senator Broeder that the Bill DO PASS. Report Adopted.

House Bill No. 40 was discussed with two members of the Committee voting against the bill. A motion was made by Groff and seconded by Rosell that the Bill Do Pass. Report adopted.

There being no further business before the Committee members, the meeting adjourned.



G. McGowan

Vice-Chairman

relating to the initiative and referendum, and be regulated by such laws, except as otherwise provided in this act.

Approved: February 25, 1973.

CHAPTER NO. 65

An Act to Create the Office of Consumer Counsel to Comply with Article XIII, Section 2 of the 1972 Montana Constitution.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. **Title and purpose of act.** This act shall be known and may be cited as "The Consumer Counsel Act."

Section 2. **As used in this act:**

(1) "Committee" means the legislative consumer committee.

(2) "Commission" means the public service commission created in section 70-101, R.C.M. 1947.

(3) "Regulated companies" means all those organizations, corporations, associations, or other public or private entities which now are or may hereafter become subject to regulation in any manner by the department of public service regulation or the public service commission or any successor agency.

Section 3. (1) There is a legislative consumer committee consisting of two (2) members of the senate and two (2) members of the house of representatives.

(2) Members of the first committee shall be appointed within fifteen (15) days after the passage and approval of this act, in the same manner as standing committees of the respective houses are appointed. Subsequent members shall be appointed in the same manner before the sixtieth legislative day of the legislative session following the expiration of the terms of the members of the committee.

(3) Any person who is an employee, agent, officer, partner, or director of any regulated company, or who has served a regulated company in any capacity within the three (3) years previous to his appointment may not be a member of the committee.

(4) A vacancy on the committee occurring when the legislature is not in session shall be filled by the selection of a legislator by the remaining members of the committee.

(5) No more than one (1) of the appointees of each house may be members of the same political party.

(6) A member shall serve until his term of office as a legislator ends and until his successor is appointed.

(7) The committee shall elect one (1) of its members as chairman and such other officers as it determines necessary.

Section 4. The committee shall meet once each quarter to advise and consult with the consumer counsel. Committee members shall be reimbursed from the appropriation to the office of the consumer counsel for their actual and necessary expenses incurred and additional sum equal to a legislator's pay while attending such quarterly meetings.

Section 5. The committee shall appoint a consumer counsel and set his salary. The consumer counsel shall have the following minimum qualifications and such additional qualifications as the committee determines appropriate:

(1) a bachelor's degree or equivalent from an accredited college or university with a major or minor in accounting or allied fields.

(2) be admitted to practice law in Montana courts and in the United States district court for the state of Montana.

Section 6. The consumer counsel may, with the approval of the committee, appoint employees and consultants necessary to carry out the provisions of this act, within the limits of legislative appropriation.

Section 7. **The consumer counsel:**

(1) shall appear at all public hearings conducted by the commission, as the representative of the consuming public, on all matters which come before the commission which in any way affect the consuming public, and shall have all the rights and powers of any party in interest appearing before the commission regarding examination and cross-examination of witnesses, presentation of evidence and other matters;

(2) may institute proceedings before the commission against regulated companies;

(3) has all the investigatory powers necessary to perform his duties as provided herein which may be granted and promulgated by the committee in accordance with the provisions of the Montana Administrative Procedure Act;

(4) may examine in any commission proceedings under oath any officer, director, manager, or employee of any regulated company and inspect the business and corporate records of any regu-

lated company in accordance with the law to aid in the exercise of his duties;

(5) may institute appropriate action in the state and federal courts in the name of the consuming public of the state of Montana for review of decisions rendered by the commission;

(6) shall meet and confer with members or representatives of the consuming public at such times and places as he determines appropriate;

(7) shall prepare and submit a yearly report and such other interim reports he determines advisable concerning his activities during the year and may recommend appropriate remedial legislation to the committee;

(8) has such other powers necessary to fully represent the interests of the consuming public before the commission as may be granted and promulgated by the committee in accordance with the provisions of the Montana Administrative Procedure Act.

Section 8. If any person is requested to appear with or without his records as a witness before the commission or to be examined under the provisions of this act, the consumer counsel or his delegate may apply to the clerk of court of the first judicial district of Montana or any judicial district for a subpoena commanding the appearance of the witness and his records if requested. It is the duty of the clerk to issue the subpoena and the duty of any peace officer to serve the same. Disobedience of a subpoena issued under the provisions of this act is contempt of court and shall be punished accordingly.

Section 9. (1) There is an account in the earmarked revenue fund to which all fees collected hereunder shall be deposited and from which all appropriations to the office of the consumer counsel shall be paid.

(2) In addition to all other licenses, fees, and taxes imposed by law, all regulated companies shall, within 90 days after the close of each calendar quarter, file with the department of public service regulation and the department of revenue a statement in such form as the commission may determine, showing the gross operating revenue from all activities regulated by the commission within the state for that calendar quarter of operation or portion thereof, and shall at that time pay to the department of revenue a fee based on a fraction of the gross operating revenue reported, as determined by the department of revenue under subsection (3) of this section.

(3) Within thirty (30) days following enactment of the legislative appropriation for the office of the consumer counsel, the de-

partment of revenue shall:

(a) determine the total gross operating revenue generated by all regulated activities within this state for all regulated companies, for the previous fiscal year,

(b) compute the percentage of the amount determined in subsection (3)(a) which will produce an amount equal to the appropriation to the consumer counsel for each year of the appropriation, and

(c) give notice by mail to each regulated company of the percentage determined in subsection (3)(a) to be applied to the gross operating revenue reported under subsection (2) above, to determine the amount of the fee to be paid in each year of the appropriation.

(4) In the event the fee charged in any one (1) year of the biennium is in excess of the amount actually expended in that year, the excess shall be deducted from the amount required for the first year of the next biennial appropriation before the determination for that year required by subsection (3)(a) of this act is made.

(5) Any regulated company, or any officer or employee of any regulated company, who, with intent to evade any fee or any requirement of this act or any lawful requirement of the commission thereunder, fails to pay the fee, or to make, render, sign or verify any statement, or to supply any information, within the time required by or under the provisions of this act, or who, with like intent, makes, renders, signs, or verifies any false or fraudulent statement, or supplies any false or fraudulent information, shall be liable to a penalty of not more than one thousand dollars (\$1,000), to be recovered by the attorney general, in the name of the state, by action in any court of competent jurisdiction, and shall also be guilty of a misdemeanor and shall, upon conviction, be fined not to exceed one thousand dollars (\$1,000) or be imprisoned in the county jail not to exceed one (1) year, or both, at the discretion of the court.

(6) The certificate of the department of revenue to the effect that a fee has not been paid, that a report has not been filed, or that information has not been supplied, as required by or under the provisions of this act, shall be prima facie evidence that such fee has not been paid, that such statement has not been filed, or that such information has not been supplied.

Section 10. **Servability.** It is the intent of the legislative assembly that if a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Approved: February 25, 1973.